

**DISCIPLINE COMMITTEE**  
**OF THE COLLEGE OF NURSES OF ONTARIO**

**PANEL:**

Grace Fox, NP	Chairperson
Laura Caravaggio, RPN	Member
Dawn Cutler, RN	Member
Mary MacMillan-Gilkinson	Public Member
Chuck Williams	Public Member

**BETWEEN:**

COLLEGE OF NURSES OF ONTARIO	)	<u>EMILY LAWRENCE</u> for
	)	College of Nurses of Ontario
- and -	)	
	)	
RALPH TUGADE	)	<u>GRANT FERGUSON</u> for
Reg. No. AA780682	)	Ralph Tugade
	)	
	)	<u>CHRIS WIRTH</u>
	)	Independent Legal Counsel
	)	
	)	Heard: October 25, 2018

**DECISION AND REASONS**

This matter came on for hearing before a panel of the Discipline Committee (the “Panel”) on October 25, 2018 at the College of Nurses of Ontario (the “College”) at Toronto.

At the request of College Counsel and Counsel for Ralph Tugade (the “Member”), the Panel made an order pursuant to s.45(3) of the *Health Professions Procedural Code* of the *Nursing Act*, 1991 banning the disclosure, including the publication and broadcasting, of the identities of the clients referred to in the Discipline Hearing of Ralph Tugade or any information that could disclose the clients’ identities, including any reference to the clients’ names contained in the allegations in the Notice of Hearing and in any exhibits filed with the Panel.

**The Allegations**

Counsel for the College advised the Panel that the College was requesting leave to withdraw the allegations set out in paragraphs 1(a), 2(a), 2(b)(a), 2(b)(e), 3(a), 3(b)(a) and 3(b)(e) of the Notice of Hearing dated July 11, 2018. The Panel granted this request. The remaining allegations against the Member are as follows:

**IT IS ALLEGED THAT:**

1. [withdrawn]; and/or
2. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and defined in subsection 1(1) of *Ontario Regulation 799/93*, in that working as a Registered Practical Nurse, you contravened a standard of practice of the profession or failed to meet the standards of practice of the profession as follows:
  - (a) [withdrawn];
  - (b) while employed at the Clinic, in or about October to December 2016, you failed to maintain the boundaries of the therapeutic nurse-client relationship with [Client A], while [Client A] was your client at the Clinic, including that:
    - a) [withdrawn];
    - b) you engaged in a personal relationship with [Client A];
    - c) you paid for hotel rooms at which [Client A] stayed;
    - d) you provided [Client A] with a cellular telephone;
    - e) [withdrawn]; and/or
    - f) you disclosed information about your personal life to [Client A]; and/or
  - (c) while employed at the William Osler Health Centre, Brampton Civic Hospital (“Hospital”), on or about February 19, 2014, you sent an email from your work email to your personal email address which contained information regarding a client, [Client B]; and/or
3. You have committed an act of professional misconduct as provided by subsection 51(1)(c) of the *Health Professions Procedural Code* of the *Nursing Act, 1991*, S.O. 1991, c. 32, as amended, and defined in subsection 1(37) of *Ontario Regulation 799/93*, in that working as a Registered Practical Nurse, you engaged in conduct or performed an act, relevant to the practice of nursing, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, as follows:
  - (a) [withdrawn];
  - (b) while employed at the Clinic, in or about October to December 2016, you failed to maintain the boundaries of the therapeutic nurse-client relationship with [Client A], while [Client A] was your client at the Clinic, including that:
    - a) [withdrawn];

- b) you engaged in a personal relationship with [Client A];
  - c) you paid for hotel rooms at which [Client A] stayed;
  - d) you provided [Client A] with a cellular telephone;
  - e) [withdrawn]; and/or
  - f) you disclosed information about your personal life to [Client A]; and/or
- (c) while employed at the William Osler Health Centre, Brampton Civic Hospital (“Hospital”), on or about February 19, 2014, you sent an email from your work email to your personal email address which contained information regarding a client, [Client B].

### **Member’s Plea**

The Member admitted the allegations set out in paragraphs 2 (b)(b), 2(b)(c), 2(b)(d), 2(b)(f), 2(c), 3(b)(b), 3(b)(c), 3(b)(d), 3(b)(f) and 3(c) in the Notice of Hearing. The Panel received a written plea inquiry which was signed by the Member. The Panel also conducted an oral plea inquiry and was satisfied that the Member’s admission was voluntary, informed and unequivocal.

### **Agreed Statement of Facts**

Counsel for the College and the Member advised the Panel that agreement had been reached on the facts and introduced an Agreed Statement of Facts, which reads as follows:

#### **THE MEMBER**

1. Ralph Tugade (the “Member”) obtained a diploma in nursing from Humber College in 2010.
2. The Member registered with the College of Nurses of Ontario (the “College”) as a Registered Practical Nurse (“RPN”) on January 4, 2011. The Member’s certificate of registration was interim suspended by the Inquiries, Complaints and Reports Committee on August 2, 2017.
3. The Member was employed at [the Clinic] (the “Clinic”) as a full-time staff nurse from September 4, 2015 to December 2016, when his employment was terminated.
4. The Member was employed at William Osler Health Centre, Brampton Civic Hospital (the “Hospital”) from March 4, 2013 until he was placed on administrative leave in February 2016. His employment was terminated on October 21, 2016.

#### **THE FACILITIES**

##### **The Clinic**

5. The Clinic is located in [ ].

6. The Clinic provides outpatient support to clients suffering from substance use disorders, using opiate agonist therapy.
7. The Member worked at the Clinic Monday to Thursday, from 0800 to 1800. He was responsible for medication administration, including Methadone, Suboxone and Hepatitis C medication, blood work, witnessing and collecting urine samples and documenting in client charts.

### **The Hospital**

8. The Hospital is located in Brampton, Ontario.
9. The Member was employed at the Hospital as a part-time staff nurse on the Children and Adolescent Mental Health unit (the “CHAD”).
10. The Hospital had a policy called “Privacy Breach Policy.” The policy stated: “Unauthorized/inappropriate disclosure is the defining characteristic of an incident. Whether it is intentional, unintentional or as a result of malicious activity, an unauthorized/inappropriate disclosure is what constitutes a privacy breach.”

### **COLLEGE STANDARDS**

#### **Therapeutic Nurse-Client Relationship**

11. The College’s *Therapeutic Nurse-Client Relationship* Standard (“the Standard”) places the responsibility for establishing and maintaining the limits or boundaries in the therapeutic nurse-client relationship on the nurse.
12. The Standard states:

[c]rossing a boundary means that the care provider is misusing the power in the relationship to meet his or her personal needs rather than the needs of the client, or behaving in an unprofessional manner with the client.
13. The Standard further clarifies that a nurse may cross a boundary in a number of different ways, including:
  - self-disclosure that does not meet a specified therapeutic client need;
  - failing to ensure that the nurse-client relationship promotes the well-being of the client and not the needs of the nurse;
  - giving gifts to the client or engaging in other behaviour that suggests a special relationship between the nurse and the client; and
  - entering into a personal or romantic relationship with a client.
14. It is a breach of the Standards to engage in personal or romantic relationships with client both during the therapeutic relationship, and for a period of time after the termination of the therapeutic relationship. For psychotherapeutic nursing, a nurse must not engage in a

personal friendship, romantic relationship or sexual relationship with the client or the client's significant other for one year following the termination of the therapeutic relationship.

## **Privacy**

15. The College also issued a Practice Standard titled *Confidentiality and Privacy – Personal Health Information* (“Practice Standard”). It was first published in 2004 and updated in 2009. It largely addresses the *Personal Health Information Protection Act* (“PHIPA”).

16. The Practice Standard begins with a general statement about the purpose of practice standards:

Nursing standards are expectations that contribute to public protection. They inform nurses of their accountabilities and the public of what to expect of nurses. Standards apply to all nurses regardless of their role, job description or area of practice.

17. The Practice Standard provides key indicators nurses can use to ensure they are meeting the standard, which include meeting the standard by, among other things:

“maintaining confidentiality of clients’ personal health information with members of the healthcare team, who are also required to maintain confidentiality, including information that is documented or stored electronically”;

“collecting only information that is needed to provide care”; and

“safeguarding the security of computerized, printed or electronically displayed or stored information against theft, loss, unauthorized access or use, disclosure, copying, modification or disposal”.

## **INCIDENTS RELEVANT TO ALLEGATIONS OF PROFESSIONAL MISCONDUCT**

### **Incidents at the Clinic**

18. [Client A] was 35 years old at the time of the incidents. She had been receiving service at the Clinic since 2005 for opioid and alcohol use disorders. She was unstable, juvenile and vulnerable.

19. Around November 2016, the Client disclosed to her Clinic staff that that she was in a relationship with the Member, including engaging in consensual sex more than once, that the Member put her up in a hotel room, provided her with a cell phone, which he later took back from her, “partied” with her, and gave her cocaine.

20. Finally, she reported that the Member told her that he was subject to an investigation because he had had sex with a 15 year old client.

21. The Member admits that he engaged in a personal relationship with Client A. He and Client A became friendly during the course of their professional interactions at the Clinic. In the summer and fall of 2016, they socialized on several occasions outside the Clinic and Clinic hours, for purposes unrelated to Client A's therapeutic needs. The Member had affection for Client A. The Member did not inform Clinic staff that he was socializing with Client A. During their social interactions, the Member disclosed personal information to Client A about his family life and his professional career.
22. In the summer and fall of 2016, Client A's living arrangements became precarious. The Member agreed to arranged for a hotel room for Client A including assisting Client A with the cost of the accommodation. The Member admits and acknowledges that doing so was outside the bounds of his role at the Clinic. In addition, the Member provided Client A with a cellular telephone and purchased credits for its use. The Member and Client A communicated by telephone. He did not tell other Clinic staff that he had done so, as he knew that his conduct was contrary to the Clinic's practice in dealing with its clientele.
23. The Clinic stocks Tylenol, Vitamin B and Testosterone for client use (where prescribed). During this summer and fall of 2016, due to the Member's personal relationship with Client A, the Member allowed Client A access to areas of the Clinic where secured medication was stored, without his presence or without supervision. The Member acknowledges that he would not have permitted such access to any other client of the Clinic. He admits that doing so was contrary to the Clinic's policies and to the standards of practice regarding securing medication, and was a breach of therapeutic boundaries. He further acknowledges and admits that allowing Client A – a client with substance abuse issues in precarious recovery - to access the Clinic's medications, either for her own use or for sale, was detrimental to her continued recovery and could have resulted in serious harm to her. If the Member were to testify, he would deny that he gave cocaine to Client A or used cocaine in her presence.
24. If the Member were to testify, he would acknowledge that he breached the therapeutic nurse-client relationship with Client A. In particular, he admits that he spent time with Client A outside the Clinic and for non-therapeutic purposes. If the Member were to testify, he would deny that he had a sexual relationship with Client A. However, the Member acknowledges that his breach of the boundaries of the therapeutic relationship caused Client A to believe that they had a personal relationship, which they did, and caused Client A considerable distress and confusion about the Member's role in her life and care.
25. The Member further admits that his secretive interactions with Client A, when she was a vulnerable client experiencing significant upheaval regarding her living and personal life, was disgraceful, dishonourable and unprofessional.

### **Incident at the Hospital**

26. [Client B] was admitted to the CHAD on February 19, 2014. She was an adolescent.

27. Later the same day, the Member sent an email from his work email to his personal email (a 'Hotmail' account). The email did not contain Client B's name, but contained her mother's first name and some background on the client and her past health history.
28. The Member was suspended effective February 17, 2016 due to allegations concerning a different adolescent client on the CHAD (which is not the subject of any allegations before the College). The Member did not return to the CHAD after his suspension, and effective October 16, 2016, the Member's employment was terminated. Staff on the CHAD discovered the email the Member had sent to himself regarding Client B after his termination.
29. If the Member were to testify, he would acknowledge that he sent an email about Client B from his work email to his personal email. The Member would say that it was to remind himself to follow up on Client B's file after his extended vacation, which started the next day. In any case, the Member acknowledges that this practice was inappropriate and breached Client B's privacy, the College's Practice Standard, and the Hospital's policy.

### **ADMISSIONS OF PROFESSIONAL MISCONDUCT**

30. The Member acknowledges that, as a professional, he was responsible for maintaining the boundaries of the nurse-client relationship, which includes maintaining the boundaries between his personal life and his professional interactions with clients, including avoiding personal disclosures.
31. The Member admits that his relationship with Client A, as described above in paragraphs 18 to 25, breached the College's *Therapeutic Nurse-Client Relationship* Standard as alleged in allegation 2(b) of the Notice of Hearing.
32. More specifically, the Member admits that he committed the acts of professional misconduct as described in paragraphs 18 to 29 above, and as alleged in the following paragraphs of the Notice of Hearing:
  - 2(b)(b) in that he engaged in a personal relationship with Client A;
  - 2(b)(c) in that he arranged for hotel rooms where Client A stayed;
  - 2(b)(d) in that he provided Client A with a cell phone;
  - 2(b)(f) in that he disclosed personal information about his personal life to Client A;
  - 2(c) in that he sent an email from his work email to his personal email address, which contained personal information about Client B.
33. The Member admits that he committed the acts of professional misconduct as alleged in the following paragraphs of the Notice of Hearing, as described in paragraphs 18 to 28 above:
  - 3(b)(b) in that his conduct was disgraceful, dishonourable and unprofessional;
  - 3(b)(c) in that his conduct was disgraceful, dishonourable and unprofessional;
  - 3(b)(d) in that his conduct was disgraceful, dishonourable and unprofessional;
  - 3(b)(f) in that his conduct was disgraceful, dishonourable and unprofessional;

- 3(c) in that his conduct was unprofessional.

34. With leave of the Discipline Committee, the College withdraws the following allegations in the Notice of Hearing:

- 1(a)
- 2(a)
- 2(b)(a)
- 2(b)(e)
- 3(a)
- 3(b)(a)
- 3(b)(e)

### **Decision**

The College bears the onus of proving the allegations in accordance with the standard of proof, that being the balance of probabilities, based upon clear, cogent and convincing evidence. Having considered the evidence and the onus and standard of proof, the Panel finds that the Member committed acts of professional misconduct as alleged in paragraphs 2(b)(b), 2(b)(c), 2(b)(d), 2(b)(f), 2(c), 3(b)(b), 3(b)(c), 3(b)(d), 3(b)(f) and 3(c) in the Notice of Hearing. As to allegations 3(b)(b), 3(b)(c), 3(b)(d) and 3(b)(f), the Panel finds that the Member engaged in conduct that would reasonably be considered by members to be disgraceful, dishonourable and unprofessional. As to allegation 3(c), the Panel finds that the Member engaged in conduct that would reasonably be considered by members to be unprofessional.

### **Reasons for Decision**

The Panel considered the Agreed Statement of Facts and the Member's plea and finds that this evidence supports findings of professional misconduct as alleged in the Notice of Hearing.

Allegations 2(b)(b), 2(b)(c), 2(b)(d), 2(b)(f) and 2(c) in the Notice of Hearing are supported by paragraphs 18-29 in the Agreed Statement of Facts. The Member admits that he breached the College's *Therapeutic Nurse-Client Relationship* Standard when he failed to establish and maintain professional boundaries with Client A. The Member misused his position of authority when he engaged in a non-therapeutic personal relationship with Client A. He neglected to take into account the effect that his conduct would have on Client A who was vulnerable and unstable. The Member acknowledges that his secretive interactions with Client A, and his preferential treatment of her, were a breach of the nurse-client relationship. The Member admits his conduct caused Client A to feel confused and distressed. The Member also admits that while working in a Clinic for substance use disorders, he engaged in a personal relationship with Client A. The Member admits that he shared personal information with her and that they socialized together outside of the Clinic. The Member admits that he arranged for Client A to be accommodated in a hotel room and that he assisted her with the costs of that room. He also admits that he provided Client A with a cellular telephone and purchased credits for her phone. They communicated using that telephone. The Member admits that his conduct was a breach of the standards of practice. The Member also admits that, while working in a Hospital, he sent personal information regarding Client B to his personal email address. He acknowledges that this was inappropriate and a breach of the College's Practice Standard and the Hospital's policy.

Allegations 3(b)(b), 3(b)(c), 3(b)(d) and 3(b)(f), are supported by paragraphs 18-28 in the Agreed Statement of Facts. In regards to these allegations, the Panel finds that the Member's conduct would reasonably be considered by members to be disgraceful, dishonourable and unprofessional. The Member's involvement with Client A and his various interactions with her, both in the Clinic and outside of the Clinic were unprofessional as they demonstrated a persistent and serious disregard for his professional obligations. The Member ought to have known that his conduct fell below the standards of a profession and were dishonourable when he helped Client A pay for accommodation in a hotel and provided her with a cell phone so that they could communicate with each other. The Member's attempts to keep the nature of the personal relationship secret shows deceit and elements of moral failing. This conduct is disgraceful and casts serious doubt on the Member's moral fitness and his inherent ability to discharge the higher obligations that the public expects of professionals.

With regard to Allegation to 3(c), the Panel finds that the Member's conduct was unprofessional when he sent personal information regarding Client B to his personal email. This shows a lack of good judgement and a serious disregard for his professional obligations.

### **Penalty**

Counsel for the College and the Member advised the Panel that a Joint Submission on Order had been agreed upon. The Joint Submission requests that this Panel make an order as follows:

1. Requiring the Member to appear before the Panel to be reprimanded within three months of the date that this Order becomes final.
2. Directing the Executive Director to suspend the Member's certificate of registration for five months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in the practising class.
3. Directing the Executive Director to impose the following terms, conditions and limitations on the Member's certificate of registration:
  - a) The Member will attend two meetings with a Nursing Expert (the "Expert"), at his own expense and within six months from the date of this Order. To comply, the Member is required to ensure that:
    - i. The Expert has expertise in nursing regulation and has been approved by the Director of Professional Conduct (the "Director") in advance of the meetings;
    - ii. At least seven days before the first meeting, the Member provides the Expert with a copy of:
      1. the Panel's Order,
      2. the Notice of Hearing,
      3. the Agreed Statement of Facts,
      4. this Joint Submission on Order, and

5. if available, a copy of the Panel's Decision and Reasons;
- iii. Before the first meeting, the Member reviews the following College publications and completes the associated Reflective Questionnaires, online learning modules, decision tools and online participation forms (where applicable):
    1. *Professional Standards*,
    2. *Therapeutic Nurse-Client Relationship*
    3. *Confidentiality and Privacy – Personal Health Information*
  - iv. At least seven days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires, and online participation forms;
  - v. The subject of the sessions with the Expert will include:
    1. the acts or omissions for which the Member was found to have committed professional misconduct,
    2. the potential consequences of the misconduct to the Member's clients, colleagues, profession and self,
    3. strategies for preventing the misconduct from recurring,
    4. the publications, questionnaires and modules set out above, and
    5. the development of a learning plan in collaboration with the Expert;
  - vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards his/her report to the Director, in which the Expert will confirm:
    1. the dates the Member attended the sessions,
    2. that the Expert received the required documents from the Member,
    3. that the Expert reviewed the required documents and subjects with the Member, and
    4. the Expert's assessment of the Member's insight into his behaviour;
  - vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on his certificate of registration;
- b) For a period of 18 months from the date the Member returns to the practice of nursing, the Member will notify his employers of the decision. To comply, the Member is required to:
    - i. Ensure that the Director is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;

- ii. Provide his employer(s) with a copy of:
    1. the Panel's Order,
    2. the Notice of Hearing,
    3. the Agreed Statement of Facts,
    4. this Joint Submission on Order, and
    5. a copy of the Panel's Decision and Reasons, once available;
  - iii. Ensure that within 14 days of the commencement or resumption of the Member's employment in any nursing position, the employer(s) forward(s) a report to the Director, in which it will confirm:
    1. that they received a copy of the required documents, and
    2. that they agree to notify the Director immediately upon receipt of any information that the Member has breached the standards of practice of the profession; and
4. All documents delivered by the Member to the College, the Expert or the employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

### **Penalty Submissions**

Submissions were made by College Counsel and the Member's Counsel.

The parties agreed that the mitigating factors in this case were:

- The Member participated in the process and negotiated in good faith. An Agreed Statement of Facts was reached.
- The Member has avoided a lengthy and contested hearing.
- The Member has taken accountability and responsibility for his actions. This bodes well for his future rehabilitation.

The aggravating factors in his case were:

- The Member's personal relationship with a vulnerable client is extremely serious.
- His conduct strikes at the heart of the profession of nursing.
- The types of conduct that the Member engaged in, as well as the secretive nature of it, warrant a significant regulatory response.

The proposed penalty provides for general deterrence through all aspects of the order. It sends a clear message to the membership about the importance of maintaining professional boundaries and of securing personal information.

The proposed penalty provides for specific deterrence through the lengthy suspension and the imposition of terms, conditions and limitations on the Member's certificate.

The proposed penalty provides for remediation and rehabilitation through the reprimand, the two meetings with a Nursing Expert, a review of College publications specific to the relevant issues and the

completion of Reflective Questionnaires. The Member will return to practice with a greater understanding of his professional obligations.

Overall, the public is protected because the Member will have the opportunity to reflect on his conduct, gain insight into his actions and improve on his practice. The Member's 18 month employer notification will ensure that he is monitored when he returns to practice.

Counsel for the College and for the Member submitted three cases to the Panel to demonstrate that the proposed penalty fell within the range of similar cases from this Discipline Committee.

The College submitted the recent case of *CNO v. Christina Vecchio* (Discipline Committee, 2018). The member worked in a substance abuse treatment facility. The member was involved in a personal, non-therapeutic relationship with a vulnerable client who was receiving treatment. There were no admissions of sexual touching. There were, however, secret rendezvous with the client under the guise of clinical care. The member was given a four month suspension, 12 month employer notification and two meetings with a nursing expert.

The College also submitted the case of *CNO v. Surujdeo Narain* (Discipline Committee, 2016). In this case, there were a number of clients and a number of allegations. The one relevant allegation relates to the member admitting that he made a personal copy of a client's records. He kept the record for himself thereby failing to maintain its confidentiality. This was a breach of the standards of practice. The member was required to have two meetings with a nursing expert, to review College publications and to complete nursing courses at his own expense. Once the courses were completed, the member was required to notify his employer for 12 months of the discipline decision. His penalty also included a significant amount of employer monitoring.

Counsel for the Defence submitted the case of *CNO v. Claude Robichaud* (Discipline Committee, 2016). This case involved inappropriate touching. It resulted in an Agreed Statement of Facts and a Joint Submission on Order. The member was given a four month suspension, two meetings with a nursing expert and 12 months of employer notification. Counsel for the Defence acknowledged that the penalty was the same as the *Vecchio* case.

### **Penalty Decision**

The Panel accepts the Joint Submission on Order and accordingly orders:

1. The Member is required to appear before the Panel to be reprimanded within three months of the date that this Order becomes final.
2. The Executive Director is directed to suspend the Member's certificate of registration for five months. This suspension shall take effect from the date that this Order becomes final and shall continue to run without interruption as long as the Member remains in the practising class.
3. The Executive Director is directed to impose the following terms, conditions and limitations on the Member's certificate of registration:

- a) The Member will attend two meetings with a Nursing Expert (the “Expert”), at his own expense and within six months from the date of this Order. To comply, the Member is required to ensure that:
- i. The Expert has expertise in nursing regulation and has been approved by the Director of Professional Conduct (the “Director”) in advance of the meetings;
  - ii. At least seven days before the first meeting, the Member provides the Expert with a copy of:
    1. the Panel’s Order,
    2. the Notice of Hearing,
    3. the Agreed Statement of Facts,
    4. this Joint Submission on Order, and
    5. if available, a copy of the Panel’s Decision and Reasons;
  - iii. Before the first meeting, the Member reviews the following College publications and completes the associated Reflective Questionnaires, online learning modules, decision tools and online participation forms (where applicable):
    1. *Professional Standards*,
    2. *Therapeutic Nurse-Client Relationship*
    3. *Confidentiality and Privacy – Personal Health Information*
  - iv. At least seven days before the first meeting, the Member provides the Expert with a copy of the completed Reflective Questionnaires, and online participation forms;
  - v. The subject of the sessions with the Expert will include:
    1. the acts or omissions for which the Member was found to have committed professional misconduct,
    2. the potential consequences of the misconduct to the Member’s clients, colleagues, profession and self,
    3. strategies for preventing the misconduct from recurring,
    4. the publications, questionnaires and modules set out above, and
    5. the development of a learning plan in collaboration with the Expert;
  - vi. Within 30 days after the Member has completed the last session, the Member will confirm that the Expert forwards his/her report to the Director, in which the Expert will confirm:
    1. the dates the Member attended the sessions,
    2. that the Expert received the required documents from the Member,
    3. that the Expert reviewed the required documents and subjects with the Member, and
    4. the Expert’s assessment of the Member’s insight into his behaviour;

- vii. If the Member does not comply with any one or more of the requirements above, the Expert may cancel any session scheduled, even if that results in the Member breaching a term, condition or limitation on his certificate of registration;
- b) For a period of 18 months from the date the Member returns to the practice of nursing, the Member will notify his employers of the decision. To comply, the Member is required to:
  - i. Ensure that the Director is notified of the name, address, and telephone number of all employer(s) within 14 days of commencing or resuming employment in any nursing position;
  - ii. Provide his employer(s) with a copy of:
    - 1. the Panel's Order,
    - 2. the Notice of Hearing,
    - 3. the Agreed Statement of Facts,
    - 4. this Joint Submission on Order, and
    - 5. a copy of the Panel's Decision and Reasons, once available;
  - iii. Ensure that within 14 days of the commencement or resumption of the Member's employment in any nursing position, the employer(s) forward(s) a report to the Director, in which it will confirm:
    - 1. that they received a copy of the required documents, and
    - 2. that they agree to notify the Director immediately upon receipt of any information that the Member has breached the standards of practice of the profession; and
- 4. All documents delivered by the Member to the College, the Expert or the employer(s) will be delivered by verifiable method, the proof of which the Member will retain.

### **Reasons for Penalty Decision**

The Panel understands that the penalty ordered should protect the public and enhance public confidence in the ability of the College to regulate nurses. This is achieved through a penalty that addresses specific deterrence, general deterrence and, where appropriate, rehabilitation and remediation. The panel also considered the penalty in light of the principle that joint submissions should not be interfered with lightly.

The Panel concluded that the proposed penalty is reasonable and in the public interest. The Member has co-operated with the College and, by agreeing to the facts and a proposed penalty, has accepted responsibility. The Panel finds that the penalty satisfies the principles of specific and general deterrence, rehabilitation and remediation, and public protection. It sends a strong message to the

membership regarding the importance of maintaining professional boundaries and ensuring that medical records remain private, confidential and secure.

The penalty is also in line with what has been ordered in previous cases.

I, Grace Fox, NP, sign this decision and reasons for the decision as Chairperson of this Discipline Panel and on behalf of the members of the Discipline Panel.

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Chairperson

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Date